

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 274 be amended to read as follows:

- 1 Page 2, after line 32, begin a new paragraph and insert:
- 2 SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
- 3 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this
- 5 article, the term "adjusted gross income" shall mean the following:
- 6 (a) In the case of all individuals, "adjusted gross income" (as defined
- 7 in Section 62 of the Internal Revenue Code), modified as follows:
- 8 (1) Subtract income that is exempt from taxation under this article
- 9 by the Constitution and statutes of the United States.
- 10 (2) Add an amount equal to any deduction or deductions allowed
- 11 or allowable pursuant to Section 62 of the Internal Revenue Code
- 12 for taxes based on or measured by income and levied at the state
- 13 level by any state of the United States.
- 14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 15 joint return filed by a husband and wife, subtract for each spouse
- 16 one thousand dollars (\$1,000).
- 17 (4) Subtract one thousand dollars (\$1,000) for:
- 18 (A) each of the exemptions provided by Section 151(c) of the
- 19 Internal Revenue Code;
- 20 (B) each additional amount allowable under Section 63(f) of the
- 21 Internal Revenue Code; and
- 22 (C) the spouse of the taxpayer if a separate return is made by
- 23 the taxpayer and if the spouse, for the calendar year in which
- 24 the taxable year of the taxpayer begins, has no gross income

1 and is not the dependent of another taxpayer.

2 (5) Subtract:

3 (A) one thousand five hundred dollars (\$1,500) for each of the
4 exemptions allowed under Section 151(c)(1)(B) of the Internal
5 Revenue Code for taxable years beginning after December 31,
6 1996; and

7 (B) five hundred dollars (\$500) for each additional amount
8 allowable under Section 63(f)(1) of the Internal Revenue Code
9 if the adjusted gross income of the taxpayer, or the taxpayer
10 and the taxpayer's spouse in the case of a joint return, is less
11 than forty thousand dollars (\$40,000).

12 This amount is in addition to the amount subtracted under
13 subdivision (4).

14 (6) Subtract an amount equal to the lesser of:

15 (A) that part of the individual's adjusted gross income (as
16 defined in Section 62 of the Internal Revenue Code) for that
17 taxable year that is subject to a tax that is imposed by a political
18 subdivision of another state and that is imposed on or measured
19 by income; or

20 (B) two thousand dollars (\$2,000).

21 (7) Add an amount equal to the total capital gain portion of a lump
22 sum distribution (as defined in Section 402(e)(4)(D) of the
23 Internal Revenue Code) if the lump sum distribution is received by
24 the individual during the taxable year and if the capital gain portion
25 of the distribution is taxed in the manner provided in Section 402
26 of the Internal Revenue Code.

27 (8) Subtract any amounts included in federal adjusted gross
28 income under Section 111 of the Internal Revenue Code as a
29 recovery of items previously deducted as an itemized deduction
30 from adjusted gross income.

31 (9) Subtract any amounts included in federal adjusted gross
32 income under the Internal Revenue Code which amounts were
33 received by the individual as supplemental railroad retirement
34 annuities under 45 U.S.C. 231 and which are not deductible under
35 subdivision (1).

36 (10) Add an amount equal to the deduction allowed under Section
37 221 of the Internal Revenue Code for married couples filing joint
38 returns if the taxable year began before January 1, 1987.

39 (11) Add an amount equal to the interest excluded from federal
40 gross income by the individual for the taxable year under Section
41 128 of the Internal Revenue Code if the taxable year began before
42 January 1, 1985.

43 (12) Subtract an amount equal to the amount of federal Social
44 Security and Railroad Retirement benefits included in a taxpayer's
45 federal gross income by Section 86 of the Internal Revenue Code.

46 (13) In the case of a nonresident taxpayer or a resident taxpayer

1 residing in Indiana for a period of less than the taxpayer's entire
 2 taxable year, the total amount of the deductions allowed pursuant
 3 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
 4 which bears the same ratio to the total as the taxpayer's income
 5 taxable in Indiana bears to the taxpayer's total income.

6 (14) In the case of an individual who is a recipient of assistance
 7 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
 8 IC 12-15-7, subtract an amount equal to that portion of the
 9 individual's adjusted gross income with respect to which the
 10 individual is not allowed under federal law to retain an amount to
 11 pay state and local income taxes.

12 (15) In the case of an eligible individual, subtract the amount of a
 13 Holocaust victim's settlement payment included in the individual's
 14 federal adjusted gross income.

15 (16) For taxable years beginning after December 31, 1999,
 16 subtract an amount equal to the portion of any premiums paid
 17 during the taxable year by the taxpayer for a qualified long term
 18 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
 19 taxpayer's spouse, or both.

20 (17) Subtract an amount equal to the lesser of:

21 (A) for a taxable year:

22 (i) including any part of 2004, the amount determined under
 23 subsection (f); and

24 (ii) beginning after December 31, 2004, two thousand five
 25 hundred dollars (\$2,500); or

26 (B) the amount of property taxes that are paid during the
 27 taxable year in Indiana by the individual on the individual's
 28 principal place of residence.

29 (18) Subtract an amount equal to the amount of a September 11
 30 terrorist attack settlement payment included in the individual's
 31 federal adjusted gross income.

32 (19) Add or subtract the amount necessary to make the adjusted
 33 gross income of any taxpayer that owns property for which bonus
 34 depreciation was allowed in the current taxable year or in an earlier
 35 taxable year equal to the amount of adjusted gross income that
 36 would have been computed had an election not been made under
 37 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
 38 bonus depreciation to the property in the year that it was placed in
 39 service.

40 **(20) Subject to subsection (g), add an amount equal to**
 41 **intangibles payments described in section 34 of this chapter**
 42 **that are directly or indirectly paid, accrued, or incurred to a**
 43 **related member during the taxable year to the extent the**
 44 **intangibles payments are deductible in calculating federal**
 45 **adjusted gross income under the Internal Revenue Code.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus

depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article

by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Subject to subsection (g), add an amount equal to intangibles payments described in section 34 of this chapter that are directly or indirectly paid, accrued, or incurred to a related member during the taxable year to the extent the intangibles payments are deductible in calculating federal taxable income under the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

(g) An adjustment under subsection (a)(20), (b)(6), (c)(6), (d)(6), or (e)(4) is not required to the extent that:

(1) the taxpayer establishes by a preponderance of the evidence, as determined by the department, that the adjustment is unreasonable;

(2) the taxpayer and the department agree in writing to the application or use of an alternative method of apportionment

under IC 6-3-2-2(l); or

(3) the intangibles payments are being paid or incurred to a related member organized under the laws of a country other than the United States, and the other country has entered into a comprehensive income tax treaty with the United States.

SECTION 3. IC 6-3-1-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 34. As used in this article, "intangibles payment" means a payment directly connected to the use, maintenance, or management of:**

- (1) stock;
- (2) bonds;
- (3) interests in partnerships;
- (4) licenses;
- (5) trademarks;
- (6) copyrights;
- (7) trade names;
- (8) trade dress;
- (9) service marks;
- (10) mask works;
- (11) trade secrets;
- (12) patents; or
- (13) any other similar types of intangible assets, as determined by the department.

SECTION 4. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 35. For purposes of this chapter, "related member" means, with respect to any taxpayer during all or any part of a taxable year:**

- (1) a person or corporation that is a related entity;
- (2) a person or corporation that is a component member (as defined in Section 1563(b) of the Internal Revenue Code);
- (3) a person or corporation to or from which there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
- (4) a person, corporation, partnership, or any other pass through entity that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person or corporation described in subdivision (1), (2), or (3).

SECTION 5. IC 6-3-1-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 36. As used in this chapter,**

"related entity" means:

(1) a stockholder who is:

(A) an individual; or

(B) a member of the stockholder's family set forth in Section 318 of the Internal Revenue Code;

if the stockholder and the members of the stockholder's family directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(2) a:

(A) stockholder; or

(B) stockholder's partnership, estate, trust, corporation, or other pass through entity;

if the stockholder and the stockholder's partnership, estate, trust, or corporation directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or

(3) a:

(A) corporation; or

(B) party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code;

if the taxpayer directly, indirectly, beneficially, or constructively owns a total of at least fifty percent (50%) of the value of the corporation's outstanding stock.

The attribution rules of the Internal Revenue Code apply for purposes of determining whether the ownership requirements of this definition have been met.

SECTION 6. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state

level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) ~~Add~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) An amount equal to:

(i) interest expenses and costs; and

(ii) intangible expenses and costs;

directly paid, accrued, or incurred to or in connection with one (1) or more transactions with one (1) or more related members in the taxable year.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus

1 depreciation was allowed in the current taxable year or in an
 2 earlier taxable year equal to the amount of adjusted gross
 3 income that would have been computed had an election not
 4 been made under Section 168(k)(2)(C)(iii) of the Internal
 5 Revenue Code to apply bonus depreciation.

6 (b) In the case of a credit union, "adjusted gross income" for a
 7 taxable year means the total transfers to undivided earnings minus
 8 dividends for that taxable year after statutory reserves are set aside
 9 under IC 28-7-1-24.

10 (c) In the case of an investment company, "adjusted gross income"
 11 means the **sum of the** company's federal taxable income, **as adjusted**
 12 **under subsection (e)**, multiplied by the quotient of:

13 (1) the aggregate of the gross payments collected by the company
 14 during the taxable year from old and new business upon
 15 investment contracts issued by the company and held by residents
 16 of Indiana; divided by

17 (2) the total amount of gross payments collected during the
 18 taxable year by the company from the business upon investment
 19 contracts issued by the company and held by persons residing
 20 within Indiana and elsewhere.

21 (d) As used in subsection (c), "investment company" means a
 22 person, copartnership, association, limited liability company, or
 23 corporation, whether domestic or foreign, that:

24 (1) is registered under the Investment Company Act of 1940 (15
 25 U.S.C. 80a-1 et seq.); and

26 (2) solicits or receives a payment to be made to itself and issues
 27 in exchange for the payment:

28 (A) a so-called bond;

29 (B) a share;

30 (C) a coupon;

31 (D) a certificate of membership;

32 (E) an agreement;

33 (F) a pretended agreement; or

34 (G) other evidences of obligation;

35 entitling the holder to anything of value at some future date, if the
 36 gross payments received by the company during the taxable year
 37 on outstanding investment contracts, plus interest and dividends
 38 earned on those contracts (by prorating the interest and dividends
 39 earned on investment contracts by the same proportion that
 40 certificate reserves (as defined by the Investment Company Act
 41 of 1940) is to the company's total assets) is at least fifty percent
 42 (50%) of the company's gross payments upon investment
 43 contracts plus gross income from all other sources except
 44 dividends from subsidiaries for the taxable year. The term
 45 "investment contract" means an instrument listed in clauses (A)
 46 through (G).

(e) The federal adjusted gross income of an investment company shall be adjusted by adding an amount equal to:

- (1) interest expenses and costs; and
- (2) intangible expenses and costs; directly or indirectly paid, accrued, or incurred to or in connection with one (1) or more transactions with one (1) or more related members in the taxable year.

(f) An adjustment under subsection (a)(1)(H) or (e) is not required to the extent that:

- (1) the taxpayer establishes by a preponderance of the evidence, as determined by the department, that the adjustment is unreasonable;
- (2) the taxpayer and the department agree in writing to the application or use of an alternative method of apportionment; or
- (3) the intangibles payments are being paid or incurred to a related member organized under the laws of a country other than the United States, and the other country has entered into a comprehensive income tax treaty with the United States.

SECTION 7. IC 6-5.5-1-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 10.5. For purposes of this chapter, "intangible investments" means investments in:**

- (1) patents;
- (2) patent applications;
- (3) trademarks;
- (4) trade names;
- (5) copyrights;
- (6) similar types of intangible assets; and
- (7) debt obligations of related members.

SECTION 8. IC 6-5.5-1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.5. For purposes of this chapter, "related member" means, with respect to any taxpayer during all or any part of a taxable year, an entity:**

- (1) that is a related entity;
- (2) that is a component member (as defined in Section 1563(b) of the Internal Revenue Code);
- (3) to or from which there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
- (4) that, notwithstanding its form of organization, bears the

1 **same relationship to the taxpayer as a person or corporation**
 2 **described in subdivision (1), (2), or (3).**

3 SECTION 9. IC 6-5.5-1-12.6 IS ADDED TO THE INDIANA CODE
 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 5 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.6. (a) As used in this**
 6 **chapter, "intangible expenses and costs" includes expenses,**
 7 **losses, and costs for, related to, or in connection directly or**
 8 **indirectly with the direct or indirect:**

- 9 **(1) acquisition;**
- 10 **(2) use;**
- 11 **(3) maintenance or management;**
- 12 **(4) ownership;**
- 13 **(5) sale; or**
- 14 **(6) exchange;**

15 **of, or any other direct or indirect disposition of, intangible**
 16 **investments to the extent that the amounts are allowed as**
 17 **deductions or costs in determining taxable income before**
 18 **operating loss deductions and special deductions for the taxable**
 19 **year under the Internal Revenue Code.**

20 **(b) The term includes losses related to or incurred in**
 21 **connection directly or indirectly with:**

- 22 **(1) factoring transactions;**
- 23 **(2) losses related to or incurred in connection directly or**
 24 **indirectly with:**
 - 25 **(A) discounting transactions;**
 - 26 **(B) royalty, patent, technical, and copyright fees;**
 - 27 **(C) licensing fees; and**
 - 28 **(D) other similar expenses and costs.**

29 SECTION 10. IC 6-5.5-1-12.7 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.7. For purposes of**
 32 **this chapter, "interest expenses and costs" includes amounts**
 33 **directly or indirectly allowed as deductions under Section 163 of**
 34 **the Internal Revenue Code for purposes of determining taxable**
 35 **income under the Internal Revenue Code.**

36 SECTION 11. IC 6-5.5-1-12.8 IS ADDED TO THE INDIANA
 37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 38 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.8. As used in this**
 39 **chapter, "related entity" means:**

- 40 **(1) a stockholder who is:**
 - 41 **(A) an individual; or**
 - 42 **(B) a member of the stockholder's family set forth in**
 43 **Section 318 of the Internal Revenue Code;**

1 if the stockholder and the members of the stockholder's
 2 family directly, indirectly, beneficially, or constructively own
 3 a total of at least fifty percent (50%) of the value of the
 4 taxpayer's outstanding stock;

5 (2) a:

6 (A) stockholder; or

7 (B) stockholder's partnership, estate, trust, or
 8 corporation;

9 if the stockholder and the stockholder's partnership, estate,
 10 trust, or corporation directly, indirectly, beneficially, or
 11 constructively own a total of at least fifty percent (50%) of
 12 the value of the taxpayer's outstanding stock; or

13 (3) a:

14 (A) corporation; or

15 (B) party related to the corporation in a manner that
 16 would require an attribution of stock from the corporation
 17 to the party or from the party to the corporation under
 18 the attribution rules of the Internal Revenue Code;

19 if the taxpayer directly, indirectly, beneficially, or
 20 constructively owns a total of at least fifty percent (50%) of
 21 the value of the corporation's outstanding stock.

22 The attribution rules of the Internal Revenue Code apply for
 23 purposes of determining whether the ownership requirements of
 24 this definition have been met.

25 SECTION 12. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]

26 The following provisions apply only to taxable years beginning
 27 after December 31, 2003:

28 (1) IC 6-3-1-3.5, as amended by this act.

29 (2) IC 6-5.5-1-2, as amended by this act.

30 SECTION 13. An emergency is declared for this act."

31 Re-number all SECTIONS consecutively.

(Reference is to ESB 274 as printed February 13, 2004.)

Representative Liggett